



W.P.Crl.(MD)No.1004 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.10.2025

CORAM :

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

W.P.Crl.(MD)No.1004 of 2025

M.V.Radhakrishnan

...Petitioner

Vs.

1.The Principal Secretary to the Government,
Housing and Urban Development,
Secretariat,
Chennai.

2.The Managing Director,
Tamilnadu Housing Board,
CMDA Complex,
Koyambedu,
Chennai.

3.The Director,
Vigilance and Anti Corruption Department,
No.293, MKN Road,
Alanthur,
Chennai.

4.The Deputy Superintendent of Police,
Vigilance and Anti Corruption Department,
Azhagar Kovil Road,
Madurai-625007.



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5.The Executive Engineer / Administrative Officer,
Tamilnadu Housing Board,
Elis Nagar,
Madurai.

6.The Member Secretary,
Local Planning Authority,
Madurai Sector-VI,
Aanaiyur,
Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, directing the respondents 3 and 4 to take appropriate action upon petitioner's representation dated 18.02.2025 and same is still pending before them seeking to take action against the erring officials attached with the respondents 2, 5 and 6 who involved in the high handed corrupt practice.

For Petitioner : Mr.P.Venkatesan

For Respondents : Mr.Veera Kathiravan,
Additional Advocate General assisted by
Mr.R.Siva Kumar,
Standing Counsel for R1, R2 & R5

Mr.S.Ravi,
Additional Public Prosecutor for R3 & R4

ORDER

The Writ Petition has been filed invoking Article 226 of the Constitution seeking direction to the respondents 3 and 4 to take



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appropriate action upon the writ petitioner's representation dated 18.02.2025.

2. The case of the writ petitioner is that the land measuring about 75 cents comprised in Survey Nos.19/1 Pt, 2Pt, 3Pt and 220/5A of Madakulam Village, Madurai was allotted to public purpose in Ellis Nagar Housing Scheme developed by Tamil Nadu Housing Board Scheme in the year 1985, that earmarked site allotted to public purpose in the above referred numbers was shown as public purpose site in the technical sanction approved by the local planning authority vide its layout approval No.44/1985, that the then Sales Manager attached to the Tamil Nadu Housing Board, Madurai gave a No Objection Certificate (NOC) through his proceedings dated 03.09.2021, wherein, permission was given to one Murugesan to convert the public site into housing plot in respect of the above said earmarked public site property, that though he is not a competent authority, he illegally misused his official capacity in order to obtain illegal gain, that the said property was worth more than crore but the respondents 2 and 5 sold out the said property at lower price to the said Murugesan, who in turn reconveyance to some other person at



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the rate of Rs.3,75,00,000/- and thereby all the officials attached to the respondents 2 and 5 in collusion with the said Murugesan by using their official capacity had violated the procedures and caused huge loss to the Government, that the writ petitioner sent a representation to the respondents 3 and 4 dated 18.02.2025 seeking action against the erring officials attached to the respondents 2, 5 and 6 but no action has been taken till now and that therefore the writ petitioner was constrained to file the present petition seeking writ of mandamus.

3. The learned Additional Advocate General appearing for the respondents 1, 2 and 5 would submit that the writ petitioner has earlier filed a Public Interest Litigation (PIL) in W.P.(MD)No.13454 of 2025 challenging the approval granted by the local planning authority and to reclassify the said land as public purpose and is pending. He would further submit that though PIL is pending, wherein, the writ petitioner has raised the same issues, has now filed the present writ petition seeking registration of criminal case to blackmail the respondents.

4. Even according to the writ petitioner, he sent a complaint to the



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respondents 3 and 4 seeking criminal action against the officials attached to the other respondents. A cursory perusal of the averments in the writ petition would only reveal that the writ petitioner has been indirectly seeking registration of criminal case. The Hon'ble Supreme Court in the case of ***Priyanka Srivastava and another Vs. State of U.P. and others*** reported in ***(2015) 6 SCC 287*** has held,

“24. Regard being had to the aforesaid enunciation of law, it needs to be reiterated that the learned Magistrate has to remain vigilant with regard to the allegations made and the nature of allegations and not to issue directions without proper application of mind. He has also to bear in mind that sending the matter would be conducive to justice and then he may pass the requisite order. The present is a case where the accused persons are serving in high positions in the bank. We are absolutely conscious that the position does not matter, for nobody is above law. But, the learned Magistrate should take note of the allegations in entirety, the date of incident and whether any cognizable case is remotely made out. It is also to be noted that when a borrower of the financial institution covered under the SARFAESI Act, invokes the jurisdiction under Section 156(3) Cr.P.C. and also there is a separate procedure under the Recovery of



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Debts due to Banks and Financial Institutions Act, 1993, an attitude of more care, caution and circumspection has to be adhered to.

25. Issuing a direction stating "as per the application" to lodge an FIR creates a very unhealthy situation in the society and also reflects the erroneous approach of the learned Magistrate. It also encourages the unscrupulous and unprincipled litigants, like the respondent no.3, namely, Prakash Kumar Bajaj, to take adventurous steps with courts to bring the financial institutions on their knees. As the factual exposition would reveal, he had prosecuted the earlier authorities and after the matter is dealt with by the High Court in a writ petition recording a settlement, he does not withdraw the criminal case and waits for some kind of situation where he can take vengeance as if he is the emperor of all he surveys. It is interesting to note that during the tenure of the appellant No.1, who is presently occupying the position of Vice-President, neither the loan was taken, nor the default was made, nor any action under the SARFAESI Act was taken. However, the action under the SARFAESI Act was taken on the second time at the instance of the present appellant No.1. We are only stating about the devilish design of the respondent No.3 to harass the appellants with the sole intent to avoid the payment of loan. When a citizen avails a loan from a



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financial institution, it is his obligation to pay back and not play truant or for that matter play possum. As we have noticed, he has been able to do such adventurous acts as he has the embedded conviction that he will not be taken to task because an application under Section 156(3) Cr.P.C. is a simple application to the court for issue of a direction to the investigating agency. We have been apprised that a carbon copy of a document is filed to show the compliance of Section 154(3), indicating it has been sent to the Superintendent of police concerned.

26. At this stage it is seemly to state that power under Section 156(3) warrants application of judicial mind. A court of law is involved. It is not the police taking steps at the stage of Section 154 of the code. A litigant at his own whim cannot invoke the authority of the Magistrate. A principled and really grieved citizen with clean hands must have free access to invoke the said power. It protects the citizens but when pervert litigations takes this route to harass their fellows citizens, efforts are to be made to scuttle and curb the same.”

5. As per the scheme of B.N.S.S., if no action is taken by the jurisdictional police i.e., respondents 3 and 4, the complainant has to approach the higher officials and if no action is taken, he has to invoke



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Section 175(3) B.N.S.S. before the jurisdictional Court. Since the writ petitioner is having effective alternative remedy, he is not entitled to invoke Article 226 of the Constitution and as such, the writ petition itself is not maintainable. Hence, this Writ Petition is dismissed as not maintainable. The writ petitioner is at liberty to take appropriate proceedings in the manner known to law. No costs.

22.10.2025

NCC :Yes/No
Index :Yes/No
Internet : Yes/ No
csm

To

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- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
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K.MURALI SHANKAR, J.

csn

Order made in
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